

JONATHAN T. AMES

IBLA 77-578

Decided November 14, 1977

Appeal from a determination of the Montana State Office, Bureau of Land Management, rejecting appellant's offers for oil and gas lease M 37876, 37878.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Applications: Filing

Where a check has been submitted with a drawing entry card in payment of the \$ 10 filing fee for a simultaneous oil and gas lease offer, and the check is dishonored by the bank, the offeror loses his priority unless the refusal to honor the check was the result of a bank error, corroborated by the bank.

APPEARANCES: Jonathan T. Ames, pro se.

OPINION BY ADMINISTRATIVE JUDGE RITVO

This is an appeal from the September 13, 1977, decisions of the Montana State Office, Bureau of Land Management (BLM), rejecting oil and gas lease offers M 37876 and M 37878 because the \$ 30 check submitted for payment for the filing fees for the offer, was returned as uncollectible.

Appellant's name was drawn first in the August 1977 Simultaneous Drawing for parcel numbers MT 1312 and MT 1315. On September 13, 1977, the BLM informed appellant of the rejection of his offers because his check for filing fees was returned as uncollectible.

In his statement of reasons appellant contends he replaced the check with a money order on September 7, 1977, and that the return of his check was due either to misinformation by the bank and/or an error in balance.

[1] A drawing entry card for a simultaneous oil and gas lease offer must be accompanied by a remittance covering the filing fee of \$ 10. 43 CFR 3112.2-1(a)(1). When appellant's check was dishonored his entry cards were not accompanied by a remittance to cover the filing fee. Thus, his later submission of a money order could not cure the defect. The Board has consistently held a check which a bank has refused to honor is not a tender or payment of the required fee unless the refusal to honor was the result of a bank error. Pauline V. Trigg, 31 IBLA 296 (1977); Wikoa, Inc., 22 IBLA 6 (1975); Duncan Miller, 16 IBLA 379 (1974). A mere allegation that a bank has erroneously refused to honor a check, uncorroborated by an admission of mistake by the bank, is not sufficient to show that the bank has made an error, and the dishonored check cannot be considered to be a proper remittance accompanying the entry card. John Eldon Dean, 32 IBLA 336 (1977).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed, subject however, to appellant's right to file with the State Office within 30 days from the date of this decision an acknowledgement by the bank of its error. If a statement is filed, the State Office will afford it due consideration.

Martin Ritvo
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Joseph W. Goss
Administrative Judge

